

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

ASTELLAS PHARMA, INC., and  
BOEHRINGER INGELHEIM  
PHARMACEUTICALS INC.,

Plaintiffs,

vs.

RANBAXY INC., RANBAXY  
PHARMACEUTICALS, INC., and RANBAXY  
LABORATORIES LTD.,

Defendants.

Civil Action No. 05-CV-2563 (MLC)

CONSENTED MOTION FOR VACATUR  
AND DISMISSAL WITHOUT PREJUDICE

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AT 8:30 \_\_\_\_\_ M  
WILLIAM T. WALSH  
CLERK

Defendants Ranbaxy Inc., Ranbaxy Pharmaceuticals Inc., and Ranbaxy Laboratories Limited (collectively "Ranbaxy") and Plaintiffs Astellas Pharma Inc. and Boehringer Ingelheim Pharmaceuticals, Inc. hereby move this Court, pursuant to Federal Rules of Civil Procedure 41(a)(1), for an Order vacating the February 21, 2007, Order and Judgment and the March 6, 2007, Amended Order and Judgment and to enter a dismissal without prejudice in this case.

In support of this consented Motion, the parties state the following:

1. The parties have reached a contingent settlement in this case, the contingency depending on further action by this Court to effectuate the settlement.
2. On February 21, 2007, this Court issued an Order and Judgment in this case, entering final judgment. On March 6, 2007, this Court amended its Order and Judgment *nunc pro tunc* to February 21, 2007. On February 22, 2007, Ranbaxy filed its Notice of Appeal to the Court of Appeals for the Federal Circuit. The parties thereafter briefed that appeal, and a panel consisting of Circuit Judges Newman and Moore and District Court Judge Farnan sitting by

designation heard oral argument on August 8, 2007. The Court of Appeals for the Federal Circuit has not issued a decision in this appeal.

3. On October 30, 2007, the parties filed with the Court of Appeals for the Federal Circuit a consented Motion to remand this case to this Court for further action that is necessary to effectuate the contingent settlement, specifically to vacate the judgment and the associated injunction, which will terminate the litigation. That Motion for Remand was granted on November 6, 2007.

4. All parties consent to this Motion.

WHEREFORE, the parties request that this Court enter the proposed Order submitted with this consented Motion.

Respectfully submitted,

MATHEWS, SHEPHERD, MCKAY &  
BRUNEAU, P.A.

By: 

Robert G. Shepherd  
Counsel for Defendants  
RANBAXY INC., RANBAXY  
PHARMACEUTICALS INC. and RANBAXY  
LABORATORIES LIMITED

Dated: 11/7/07

McCARTER & ENGLISH, LLP

By: 

Andrew P. Berry  
Counsel for Plaintiffs  
ASTELLAS PHARMA INC. AND  
BOEHRINGER INGELHEIM  
PHARMACEUTICALS, INC.

Dated: 11/7/07